****

# IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

**Civil Revision No. 2734 of 2005**
**Date of decision :** 22.2.2010

Radha Rani

....Petitioner

**Versus**

Harish Kumar ...Respondent

**CORAM : HON'BLE MR. JUSTICE S. D. ANAND**

**Present:** Mr.Vikrant Oberoi, Advocate for the petitioner

**S. D. ANAND, J.**

A plea raised by the petitioner herein, for the award of interim maintenance (during the pendency of a suit filed by her in terms of Order 33 Rule 1 C.P.C.), came to be declined by the learned Trial Court on the essential premise that a local commissioner appointed by the Court had reported that the petitioner herein who was running a Beauty Parlour and that she has sufficient income to sustain herself and that she is not dependent on any one.

The above foundational premise of the impugned order has been found to be factually inaccurate. A copy of the report furnished by the Local Commissioner has been placed on record as Annexure A-1. The facts, noticed in para 6 thereof, indicate that the two girls available in the premises gave out that the Beauty Parlour is being run by one Amarjit Kaur. The affidavit sworn by Amarjit Kaur aforementioned has been placed on record as Annexure A-2 wherein she concedes that fact. She further averred, in the course of the affidavit, that the local commissioner i.e. one lady Advocate came to the shop and was informed by her that she

****

only is running the Beauty parlour in the tenanted premises. That averment, in the course of the affidavit, is in accord with the finding recorded by the learned Local Commissioner in the course of para 7 of the report.

It is only in the course of para 8 that the Local Commissioner noticed that one Gurminder Singh, who is running a tailoring shop nearby, informed her (local commissioner) that it is Radha Rani (petitioner herein) who is running a Beauty Parlour over there. The petitioner herein has placed on record the affidavit of Gurminder Singh aforementioned as Annexure A-3 wherein he claims to have informed the local commissioner that the Beauty Paralour is being run by Mst. Amarjit Kaur (whose affidavit has been placed on record as Annexure A-2).

In the light of above facts, it is apparent that the learned Trial Court proceeded on a factually incorrect premise in obtaining the view under challenge.

The petition shall stand allowed. The impugned order shall stand set aside. The learned Trial Court shall proceed to dispose of the application afresh within one from from 5.3.2010 on which date the matter shall be listed before it for hearing.

Learned counsel for the petitioner informs otherwise that the petition is not being persued in forma pauperis inasmuch as the petitioner herein has paid up the relevant court fee and presently the matter fixed for petitioner's evidence. The allowance of the present petition notwithstanding, the learned Trial Court shall, ofcourse, proceed with the trial of the petition on merits thereof.

**February 22, 2010** **(S. D. ANAND)**
**Pka** **JUDGE**